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Book Reviews

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"Crime and Politics." . . . Senator Estes Kefauver.

"Crime and Labor." . . . Senator Patrick McNamara.

"Case against Capital Punishment." . . . Mrs. Herbert B. Ehrmann.

"Psychographology in Criminal Investigation." . . . Klara Roman.

"A Convict Evaluates our Penal Institutions." Michael Perry.

"Homicide in the Highway." . . . Paul Weston.

"Science and the Traffic Problem." . . . George Eastman.

"Institutional Treatment of Criminal Psychotics." . . . Dean Tasher.

"Management Focus for Criminology." . . . John Kenney.

"Technical Assistance for Police Administration." . . . Byron Engle.

Other possible contributors: Peter Lejins, Howard Gill, Clyde Vedder, Jerry Shalloo, Robert Sherwin and Sheldon Glueck.

BOOK REVIEWS

THE PSYCHOANALYTIC STUDY OF THE CHILD. Volume XII. Edited by *Ruth S. Eissler, Anna Freud, Heinz Hartmann, and Ernst Kris* (the last editor since deceased). New York: International Universities Press, 1958, Pp. 417, $8.50.

Of the twenty articles, top priority for the reader of this JOURNAL will undoubtedly go to "Proedipal Factors in the Etiology of Fenal Delinquency" by Peter Blos. According to this author's definition, delinquency refers "to a personality disturbance which manifests itself in open conflict with society." Therefore, the author feels that the social aspect of the problem should be pushed into the forefront and will, and has already, "stimulated sociological research which in turn has thrown light on those environmental conditions which are significantly related to delinquent behavior." The author applies a multidisciplinary approach, which bears out the story of the Case of Nancy, a thirteen years old girl with a history of sexual promiscuity. Here we have integrated "family therapy," whereby the home is taking an active part in the treatment of the child. Through a number of sessions which related the early history of the child, and the reasons for her delinquency, Nancy won insight or, as the author explains, "having brought back Nancy's delinquent behavior to the predisposing antecedents residing in the sadistic oral phase, the circle seems to be closed." This and the other articles make very worthwhile reading and are highly recommended.

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THE CRIMINAL AREA—A STUDY IN SOCIAL ECOLOGY. By *Terence Morris*. Foreword by Hermann Mannheim. Routledge & Kegan Paul, Ltd., London, 1957, Pp. XIII, 202. 25a. net.

"The Criminal Area" is in all probability the clearest exposition to date of the merits and limitations of the ecological interpretation of crime and juvenile delinquency. A well-thought out presentation of the work of the Chicago School and of Clifford Shaw is also included.

Ecological studies of crime over the past 150 years are examined and related to the development of a theory of urbanism. Names such as Guerry, Rawson, Fletcher and Mayhew are considered. Much of the work of these men is usually unavailable except to readers in the British museum. As an added bonus, the important current research in the field which has been published up to 1956 is described.

Against this well-documented background of material Dr. Morris presents the results of his own ecological study of crime in the County Borough of Croydon. "Delinquency areas" and cases of individual delinquents are discussed. His conclusions are most interesting. Delinquency is not only a function of social class, thus confirming Cohen's hypothesis (Delinquent Boys) but that it is vitally related to aspects of housing and social

policy. The author's provocative views on delinquency will be of special interest to social workers, social scientists, administrators, local authorities and civic-minded peoples.

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DIE BEURTEILUNG DER ZURECHNUNGSFÄHIGKEIT. (HOW THE PLEA OF INSANITY IN COURT IS HANDLED BY THE PSYCHIATRIST). By *Kurt Schneider*. Georg Thieme Verlag, Stutgart, 1956, p. 36, 65¢.

The translation which this reviewer has given to the German title, shows what this booklet is meant to achieve and indeed does with admirable lucidity. The author orients his ideas on a nosological system in which diseases, i.e., known or on principle knowable clinical entities, are differentiated from variations which may be abnormally far from the average but need not be explained on the basis of pathological processes. The second orientation is on the philosophical idea of imputability. It is obvious that these two ideas, i.e., the clinical psychiatric nosology and the ethical philosophical idea of imputability do not have a common denominator. Schneider could have omitted the reference to philosophy without in the least compromising the value of his book.

It is much more important that in the practice of judging pleas of insanity the wording of section 51 of the German Criminal Law is and has to be disregarded by the psychiatrist. This paragraph stipulates that there is no criminally imputable action where the perpetrator was unable, on account of beclouded consciousness or pathological disorder of the functioning of his mind or of debility, to understand that his deed was not permissible or where he could not direct his actions according to his insight. In fact, as Schneider lucidly shows, no psychiatrist can answer the second of these problems and the psychiatrist has, generally speaking, no business to judge whether the culprit was able to understand that his deed was not permissible. Instead, "We conclude generally from the clinical picture that the perpetrator was or was not mentally ill while committing his deed." "We answer the questions of the jurists in a summary way.... We recommend accepting the plea of insanity, if a paranoic has committed murder; not only if he murdered his delusionary persecutor." An explosive psychopath could be exonerated, if his deed is verbal abuse or insult, not easily however, if he committed a theft. Be this as it may, "the real amount of guilt can not be evaluated by any court."

The expert should not try to adjust his opinion easily to all the questions the lawyer may ask. The expert should limit himself, as in the application of any empirical science, to contributing toward an approximately just verdict.

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PÅGRIPELSE OG VARETEKTSFENGSEL (ARREST AND DETENTION BEFORE TRIAL.) By *Anders Bratholm*, Universitets forlaget, Oslo, Norway, 1957, Pp. XIII, 412.

This book, one of a series published by the University of Oslo Institute of Criminology and Criminal Law, discusses arrest and detention before trial. By detention is meant a deprivation of liberty before trial. It is of rather long duration. Its length is decided by the court, and ordered after a hearing at which the defendant has been present and has been free to state his objections.

This subject had previously been rather neglected in Norwegian legal theory. The book is based on comprehensive studies of theory and practice. It contains full statistical studies as to the application of detention in the various parts of Norway. It concludes that detention is used much more in Norway than in the other Scandinavian countries, and that the periods of detention are unreasonably long. The author considers why detention is used in Norway, and concludes that it is employed for wholly different purposes than those recognized by Norwegian law.

There is a thorough presentation of many legal questions which arise out of the Norwegian law on arrest and detention. The author has read about 25,000 cases on remand for detention considered by the appeals committee of the Supreme Court of Norway during a period of 45 years and by the five intermediate appellate courts (*lagmannsretter*) during a period of 20 years. It is concluded that there are large differences in the practice of the intermediate appellate courts. One of the reasons for this is the failure of the Norwegian legal publication *Norsk Retstidende* to publish important decisions on detention.

In a final chapter the author concludes that there should be a radical revision of the Norwegian law of criminal procedure on arrest and detention. The present law does not adequately

protect a criminal defendant. In certain situations, however, the power to arrest and detain is too narrow, and should be expanded, accompanied by several new procedural guarantees for the protection of the defendant, particularly with respect to the right to counsel paid for by public funds. Security against deprivation of liberty can scarcely be purchased at too great a price. This should be constantly borne in mind by countries which are regarded as constitutional states and which wish to be so regarded.

The book is an excellent example of comparative law studies. In addition to the law of Norway there is also discussion of the law of Denmark, Sweden, Western Germany, England, and the United States. The author who has visited each country describes the actual practice as well as the procedural law itself, and finds that the two often do not coincide. The usefulness of the book is greatly enhanced by the fact that while the book is published in the Norwegian language there is an 18 page summary in German and a similar summary in English.

In partial defense of the present system it is pointed out that most persons illegally arrested or detained are guilty of the act stated in the accusation. The present system has a beneficial preventive effect and paradoxically maintains respect for law. Usually there is a deduction in the sentence for the entire period in custody. But overweighing this is the concept that in a constitutional state deprivation of liberty should be founded on law. There are three possible solutions: (1) amending the law of criminal procedure to conform to actual practice; (2) modifying the actual practice so that it conforms to law; and (3) adopting a compromise between existing law and practice. The author favors the third solution.

The author concludes that the right to arrest should be wider than the right to detain for trial as there is a smaller infringement of liberty. That is the Swedish and Danish approach. Under Swedish law the police may without an arrest detain a suspect up to twelve hours for questioning. Detention is more justified in cases where the presumption of guilt is very strong and where it is probable that the defendant will be sentenced to an unconditional term of imprisonment. Where the presumption of guilt is clear, detention for the protection of the accused, detention on generally preventive grounds, and detention as preventive shock, should be permitted. But such detention should not be used where guilt is doubtful as it is tantamount to punishing on mere suspicion. The accused should be provided with counsel during his appearance at a remand hearing on detention before trial. In Sweden counsel is appointed immediately after the arrest and fewer prisoners are remanded in custody. The court should be required to state its reasons for a remand order, instead of merely referring to the remand rules of the statutes. The accused should be released immediately when the requirements of the statute for remand for detention are no longer present. The criminal proceeding should go forward expeditiously as to defendants in custody. Finally, there should be an official answerable only to the legislative body who may control administrative practices as to arrest and detention. Such a plan has worked very well in Sweden. It is interesting that in Norway prisoners are remanded in custody for detention before trial between three and four times as often as in Sweden, and the difference between Oslo and Stockholm is even greater. Bail is seldom used in Norway, Denmark, and Western Germany, and is not used at all in Sweden. Where detention is not used, the chief substitute is a duty to report to the police.

The bulk of the book is devoted to detention before trial. In the United States the subject has not been analyzed under this heading but rather under the heading of bail and the right to a speedy trial, both of them constitutional rights.

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ATTORNEY FOR THE DAMNED. *Arthur Weinburg*, Editor. Foreword by Justice *William O. Douglas*. Simon and Schuster, 1957. Pp. 552. $6.50.

This book is a collection of pleas to the jury and other addresses by Mr. Clarence Darrow. "The words he spoke in his most daring and crucial hours as Attorney for the Damned."

The pleas included here were made in: The Leopold-Loeb case, 1924, ("The Crime of Compulsion."); The Massie Case, Honolulu, 1932, ("The Unwritten Law"); The Communist Trial in Chicago, 1920, ("Freedom Knows No Limits."); The Scopes Evolution case, Dayton, Tenn., 1925, ("You Can't Teach That."); The Sweet case, Detroit, 1926, ("You Can't Live There."); The Kidd case, Oshkosh, 1898. ("Somewhere there is a Conspiracy."); The Anthracite Miners case, Scranton, 1903, ("Strike, Arbitration."); The case